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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/762,008
Filing Date: January 21, 2004
Appellant(s): GROB ET AL.

Mark C. Johnson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/01/2007 appealing from the Office action mailed 02/12/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

A notice of appeal and an appeal brief have been filed for U.S. Application No. 10/651,871.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct, i.e. the summary provided by Applicant accurately and clearly describes the invention. However, it is noted that while the examiner agrees with Applicant's description of the claimed subject matter, the examiner does not agree with Applicant's statement regarding 35 U.S.C. 112, 6th paragraph on page 5, lines 10-11 and 18-19. In these lines, instead of providing a summary of the claimed subject matter for the purpose of providing a clear understanding of the invention, Applicant is referring to a claim

interpretation issue. This claim interpretation issue is further addressed below in Section (10) Response to Argument.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8-12, 14-15, 18-19, 38, 43-49 and 52-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Fitz (U.S. Patent No. 5,571,191).

Fitz discloses a cervical facet resurfacing implant comprising a superior implant (ref. #40) having an articulating surface and a fixation surface and configured for secured placement on a resurfaced superior articular facet of a selected cervical

vertebra (col. 2, lines 20-25); and an inferior implant (ref. #50) having an articulating surface and a fixation surface and configured for secured placement on a resurfaced inferior articular facet of a cervical vertebra or occiput immediately above the selected cervical vertebra such that the articulating surface of the inferior implant interacts with the articular surface of the superior implant wherein at least one of the superior implant or the inferior implant comprises a tab (see FIG. 3) extending from a lateral edge of the implant, and wherein the tab has an aperture (ref. #54 or 56) for receiving a fixation device. The inferior implant further comprises a tab configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected cervical vertebra. The tab is configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected cervical vertebra with a screw. The tab extends from the remainder of the inferior implant to form an angle of from about 10 degrees to about 70 degrees. The inferior implant comprises a surface fixation mechanism (ref. #54 or 56). The surface fixation mechanism comprises at least one screw hole. The fixation surface of at least one of the inferior implant or the superior implant has at least one of: a porous coating, a porous onlay material, a biologic coating, a surface treatment, or a material facilitating ingrowth of bone (col. 3, lines 35-40). The inferior implant or the superior implant is composed of Ti/AlN (col. 2, line 3). The trans-lateral mass fixation mechanism is a screw (ref. #58 or 60).

Claims 1-2, 4-6, 8-15, 20-24, 38-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Dooris et al. (U.S. Patent Application Publication No. 2004/0127989).

Dooris et al. disclose embodiments of a cervical facet resurfacing implant comprising a superior implant having an articulating surface and a fixation surface and configured for secured placement on a resurfaced superior articular facet of a selected cervical vertebra; and an inferior implant having an articulating surface and a fixation surface and configured for secured placement on a resurfaced inferior articular facet of a cervical vertebra or occiput immediately above the selected cervical vertebra such that the articulating surface of the inferior implant interacts with the articular surface of the superior implant wherein at least one of the superior implant or the inferior implant comprises a tab extending from a lateral edge of the implant, and wherein the tab has an aperture for receiving a fixation device (see FIGS. 9-11). The superior implant and inferior implant are each generally disk-shaped. The superior implant comprises a tab configured for attachment to the lateral mass of the selected cervical vertebra. The tab is configured for attachment to the lateral mass of the selected cervical vertebra with a screw. The tab extends from the remainder of the superior implant to form an angle of from about 110 degrees to about 160 degrees. The inferior implant further comprises a tab configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected cervical vertebra. The tab is configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected cervical vertebra with a screw. The tab extends from the remainder of the inferior implant to form an angle of from about 10 degrees to about 70 degrees. At least one of the superior implant or the inferior implant comprises a surface fixation mechanism. The surface fixation mechanism comprises at least one of

at least one peg, at least one pip, at least one fin, ridges, or at least one screw hole (paragraph [0118]). The surface fixation mechanism comprises multiple regions and wherein each of the regions has multiple ridges oriented in a different direction than the other regions (paragraph [0118]). The fixation surface of at least one of the inferior implant or the superior implant has a material facilitating ingrowth of bone (paragraph [0059]). The articulating surface of at least one of the inferior implant or the superior implant is composed of at least one of UHMWPE, i.e. a biocompatible material adapted for constraining but not eliminating relative movement (paragraph [0048]).

Claims 1-2, 8-13 and 15-22, 24, 38-47 and 49-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Soboleski et al. (U.S. Patent Application Publication No. 2002/0151895).

Soboleski et al. disclose embodiments of a cervical facet resurfacing implant comprising a superior implant (ref. #16) having an articulating surface and a fixation surface and configured for secured placement on a resurfaced superior articular facet of a selected cervical vertebra (paragraph [0045-46]; and an inferior implant (ref. #12) having an articulating surface and a fixation surface and configured for secured placement on a resurfaced inferior articular facet of a cervical vertebra or occiput immediately above the selected cervical vertebra such that the articulating surface of the inferior implant interacts with the articular surface of the superior implant wherein at least one of the superior implant or the inferior implant comprises a tab extending from a lateral edge of the implant, and wherein the tab has an aperture for receiving a fixation device. The superior implant and inferior implant are each generally disk-shaped. The

inferior implant further comprises a tab (e.g. see FIG. 3B, ref. #52) configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected cervical vertebra. The tab is configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected cervical vertebra with a screw. The tab extends from the remainder of the inferior implant to form an angle of from about 10 degrees to about 70 degrees. At least one of the superior implant or the inferior implant comprises a surface fixation mechanism. The surface fixation mechanism comprises at least one of at least one peg, at least one pip, at least one fin, ridges, or at least one screw hole (paragraph [0043]). The surface fixation mechanism comprises multiple regions and wherein each of the regions has multiple ridges oriented in a different direction than the other regions (see IFG. 3c, ref. #'s 64 and 68). The articulating surface of at least one of the inferior implant or the superior implant is composed of at least one of: cobalt-chromium alloy, ceramic, UHMWPE, pyrolytic carbon, or Ti/AIN. The inferior implant and superior implant each range from about 1 mm thick to about 6 mm thick and the inferior implant and superior implant each range from about 3 mm in diameter to about 14 mm in diameter (paragraph [0046]). The cervical facet resurfacing implant comprises a trans-lateral mass fixation mechanism (FIG. 3E, ref. #72) for securing the inferior implant to the inferior articular facet, which comprises a fixation pin.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 16-17 and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitz (U.S. Patent No. 5,571,191).

Fitz discloses the claimed invention except for explicitly stating that the inferior implant and superior implant each range from about 1 mm thick to about 6 mm thick, and the inferior implant and superior implant each range from about 3 mm in diameter to about 14 mm in diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of Fitz with the inferior implant and superior implant each range from about 1 mm thick to about 6 mm thick, and the inferior implant and superior implant each range from about 3 mm in diameter to about 14 mm in diameter, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claims 16-17 and 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dooris et al. (U.S. Patent Application Publication No. 2004/0127989)

Dooris et al. discloses the claimed invention except for explicitly stating that the inferior implant and superior implant each range from about 1 mm thick to about 6 mm thick, and the inferior implant and superior implant each range from about 3 mm in

diameter to about 14 mm in diameter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of Dooris et al. with the inferior implant and superior implant each range from about 1 mm thick to about 6 mm thick, and the inferior implant and superior implant each range from about 3 mm in diameter to about 14 mm in diameter, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Claims 14, 23 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soboleski et al. (U.S. Patent Application Publication No. 2002/0151895) in view of Lee (U.S. Patent Application Publication 2005/0043797).

Soboleski et al. disclose the claimed invention except for at least one of: a porous coating, a porous onlay material, a biologic coating, a surface treatment, or a material facilitating ingrowth of bone.

Lee discloses using a porous coating to promote bone ingrowth (paragraph [0017]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the device of Soboleski et al. with a porous coating in view of Lee to promote bone ingrowth. Moreover, it is well known in the art to use porous/biological coatings, surface treatments, onlays, and other bone growth promoting materials on the surface of implants.

(10) Response to Argument

Appellant raised a number of issues in the brief that require rebuttal in this examiner's answer:

Appellant states on page 5, lines 10-11 and 18-19, of the brief:

"Claim 38: A cervical facet resurfacing implant comprises superior implant means for providing an artificial articulating surface on a superior articular facet of a selected cervical vertebra, the superior implant means being configured for secured placement on a resurfaced superior articular facet of a selected cervical vertebra. This element is subject to 35 U.S.C. § 112, paragraph 6. The structure that corresponds to the superior implant means is the superior implant (102).... The facet implant also comprises inferior implant means for providing an artificial articulating surface on an inferior articular facet, the inferior implant means being configured for secured placement on a resurfaced inferior articular facet of a cervical vertebra or occiput immediately above the selected cervical vertebra. This element is subject to 35 U.S.C. § 112, paragraph 6. The structure that corresponds to the superior implant means is the inferior implant (104,204)."

The examiner respectfully disagrees with Applicant that the terms "superior implant means for providing...". and "inferior implant means for providing..." properly invoke 35 U.S.C. § 112, sixth paragraph, because the phrase "means for" must not be modified by sufficient structure, material, or acts for achieving the specified function. 35 U.S.C. § 112, sixth paragraph states that "An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital

of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof." The examiner asserts that the phrases "superior implant" and "inferior implant" preceding the means for clauses do not properly invoke 35 U.S.C. 112, sixth paragraph because these phrases provide sufficient structure in two ways. First, the words "superior" and "inferior" provide structural details by defining the relative positions of elements 102 and 104. Further, the recitation of the word "implant" provides structure as well, since an "implant" must have a sufficiently small size to be implanted into a body, in this case a cervical facet. Therefore, by reciting the terms "superior implant" and "inferior implant", Applicant has provided two structural limitations, the structure being 1.) the relative locations of the elements described by the means for clause, and 2.) the limited size of the elements. It is further noted that even if Applicant is correct in asserting that the phrases "superior implant means for providing..." and "inferior implant means for providing..." properly invoke 35 U.S.C. § 112, sixth paragraph, the prior art rejections still anticipate the claimed invention, as will be discussed below.

Regarding the rejection of claims 1-2, 8-13 and 15-22, 24, 38-47 and 49-53 under 35 U.S.C. 102(e) as being anticipated by Soboleski et al. (U.S. Patent Application Publication No. 2002/0151895), herein Soboleski:

Appellant states on page 9, lines 7-9, of the brief:

"First, Soboleski does not disclose a cervical facet implant. There is no indication in Soboleski that the implant disclosed could even be used with cervical vertebrae."

The examiner respectfully disagrees with Appellant's assertion. In paragraph [0046], lines 4-7 of Soboleski, the reference clearly states, "The size or area of the opposed faces of the facet cap will depend on factors such as where in the spine the facet cap is implanted **(e.g. cervical being smaller than lumbar)**." Clearly, these lines of the reference indicate that Soboleski discloses that the implant can be used with the cervical vertebrae, since Soboleski **explicitly** mentions the cervical region of the spine.

Appellant states on page 9, lines 9-10, page 10, lines 2-3, and page 11, lines 12-14, of the brief:

"Second, Soboleski discloses only a single implant ....not superior and inferior implants with surfaces capable of articulating with one another....Soboleski unquestionably identifies elements 14 and 16 as surfaces on opposite sides of a single implant."

While Appellant is correct that elements 14 and 16 of FIG. 2 are disclosed as one-piece, the examiner respectfully disagrees with Appellant's assertion that Soboleski does not disclose an implant with superior and inferior implants with surfaces capable of articulating with one another. It is noted that the embodiment of FIG. 2 cited to Applicant is merely one embodiment of the many disclosed embodiments of the invention of Soboleski. Further perusal of the text will show that **Soboleski also discloses that the device can be separated into two separate components, in order to adjust the distance between the facet hooks, and/or the angle of the shim portion (see paragraph [0055]).** An embodiment illustrating this adjustment feature is

shown in FIG. 5A. Therefore, Soboleski discloses the claimed superior and inferior implants with surfaces capable of articulating with one another.

Appellant states on page 11, lines 24-25, page 12, lines 1-2, of the brief:

"Soboleski still fails to disclose an inferior implant having a tab configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected vertebra as recited in claim 8."

The examiner respectfully disagrees that the invention of Soboleski lacks a tab configured for attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected vertebra, i.e. a tab capable of attachment to the inferior articular process of the cervical vertebra or occiput immediately above the selected vertebra. It is noted that this functional statement does not impose any structural limitations on the claims distinguishable over Soboleski, which is capable of being used as claimed if one so desires to do so. *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Furthermore, the law of anticipation does not require that the reference "teach" what the subject patent teaches, but rather it is only necessary that the claims under attack "read on" something in the reference. Kalman v. Kimberly Clark Corp., 218 USPQ 781 (CCPA 1983). Furthermore, the manner in which a device is intended to be employed does not differentiate the claimed apparatus from prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). In other words, **Appellant is merely claiming that the tab is capable of being attached to the cervical vertebra or occiput** immediately above the selected vertebra. Appellant has not specified that the

implant must be implanted into its position in the cervical facet joint and the tab simultaneously attached to the cervical vertebra or occiput immediately above the selected vertebra. Therefore, one would be able to meet this functional language, for example, by merely attaching the tab of the implant to the cervical vertebra or occiput immediately above the selected vertebra via a screw and with the rest of the implant being at any random orientation. As currently claimed, the invention of Soboleski anticipates that claimed functional language.

Regarding claims 38-47 and 49-53, it is further noted that the superior and inferior implant components can be considered the "superior implant means for providing..." and "inferior implant means for providing..." recited in claim 38. Therefore, while the examiner disagrees that Applicant is properly invoking 35 U.S.C. 112, sixth paragraph, the examiner maintains that Soboleski anticipates the means-plus-function language regardless, since Soboleski describes that the implant can be made of two separate articulating components (refer to paragraph [0055] and FIG. 5A in Soboleski, and above discussion of separate components). The separate components described in paragraph [0055] are capable of moving relative each other, or articulating, via mechanisms such as ratcheting and wedges.

The rejection of claims 1-2, 8-13 and 15-22, 24, 38-47 and 49-53 under 35 U.S.C. 102(e) as being anticipated by Soboleski et al. (U.S. Patent Application Publication 2002/0151895) is deemed proper.

Regarding the rejection of claims 1, 8-12, 14-15, 18-19, 38, 43-49 and 52-53 under 35 U.S.C. 102(b) as being anticipated by Fitz (U.S. Patent No. 5,571,191):

Appellant states on page 17, lines 13-14, and page 18, lines 3-4, of the brief:

"*Fitz* cannot anticipate independent claim 1 because Fitz is not capable of being placed on a superior articular facet of a selected cervical vertebra....Rather, Fitz is shaped for placement on articular facets of lumbar vertebrae..."

The examiner respectfully disagrees that the device of Fitz is for the lumbar region only and not the cervical region. In col. 2, lines 21-25, Fitz states, "the present invention is intended to be constructed in various forms and shapes to replace **any facet joint in the cervical, thoracic, or lumbar spine**." Clearly, these lines of the reference indicate that Fitz discloses that the implant can be used with any region of the spine, including the cervical vertebrae, since Fitz **explicitly** mentions the cervical region of the spine.

Regarding claims 38, 43-49 and 52-53, it is further noted that the superior and inferior implant components can be considered the "superior implant means for providing..." and "inferior implant means for providing..." recited in claim 38. Therefore, while the examiner disagrees that Applicant is properly invoking 35 U.S.C. 112, sixth paragraph, the examiner maintains that the Fitz clearly discloses the claimed subject matter as means for providing an artificial articulating surface on a superior articular facet of a selected cervical vertebra and means for providing an artificial articulating surface on an inferior articular facet, as discussed in the above preceding paragraph.

The rejection of claims 1, 8-12, 14-15, 18-19, 38, 43-49 and 52-53 under 35 U.S.C. 102(b) as being anticipated by Fitz (U.S. Patent No 5,571,191) is deemed proper.

Regarding the rejection of claims 1-2, 4-6, 8-15, 20-24, 38-49 under 35 U.S.C. 102(e) as being anticipated by Dooris et al. (U.S. Patent Application Publication No. 2004/0127989), herein Dooris:

Appellant states on page 22, lines 14-16, of the brief:

"...the Examiner's rejections are based on the misconception that the artificial ligament sleeve of *Dooris* represents two articulating implants."

Appellant's confusion regarding the artificial ligament sleeve being the two articulating implants is understandable, since it was not clearly described in the final office action that the two articulating implants can be considered the embodiments shown in FIG. 9 and 10, and not artificial ligament sleeve shown in FIG. 11. The artificial ligament sleeve shown in FIG. 11 can be used in conjunction with the implants of FIGS. 9 and 10. Thus, the examiner now clarifies that the two articulating implants are either the embodiment shown in FIG. 9 or the embodiment shown in FIG. 10. Appellant's arguments regarding the embodiments of FIG. 9 and FIG. 10 will be addressed below.

Appellant states on page 25, lines 1-5, and page 26, lines 6-9 of the brief:

"...In FIG. 9 *Dooris* discloses an articulating lumbar facet device. The lumbar facet device includes a superior component 91 and an inferior component 95. For the same reasons set forth above with reference to *Fitz*, the device of Figure 9 of *Dooris* is not capable of being placed on resurfaced articular facets of cervical vertebrae" and "the superior component 201 and the inferior component 211 of FIG. 10 of Dooris are not capable of being placed on a resurfaced cervical vertebrae. Dooris also discloses a non-articulating, cushion-style lumbar facet joint as illustrated in FIG. 10..."

The examiner respectfully disagrees. While Dooris does not explicitly state that the implants of FIG. 9 and 10 are to be used in the cervical facet region, it is clear from the reference that the implants are to be used in the facet of a spine. The reference provides a specific embodiment of the invention being used in the lumbar region of the spine (see paragraph [0073], "In embodiments to be used in the lumbar spine..."), however, the reference mentions that this is an embodiment. Therefore, the examiner's opinion is that the invention of Dooris is intended to be used in any spinal facet and is not limited to just the lumbar region, as suggested by Appellant. Furthermore, it is noted that in paragraph [0007], the Dooris reference refers to the Fitz invention (U.S. Patent Re. No. 36,758 of U.S. Patent No. 5,571,191- the same Fitz invention already discussed above, which discloses that the implant is intended for any facet including the cervical facet), and states that the Fitz invention has several disadvantages, including that a large number of sizes and shapes of the implants are required to accommodate between the different levels within the spinal column. Therefore, it is the examiner's opinion that the Dooris reference does disclose an implant capable of being used in the any level of the spinal column, including the cervical facet. Further, it is noted that the current claims are not drawn to a human facet, so it is possible that the embodiment of the implant intended for a human lumbar of Dooris could be used as an implant into the cervical region of a larger, non-human mammal. Regarding Applicant's comments that the device of FIG. 10 is "non-articulating" the examiner respectfully disagrees, and points out paragraphs [0113]. While it is acknowledges that the device of FIG. 10 does

not have entirely separate inner articulation surfaces, the two components 205 and 215 still form a joint and thus can be considered articulating surfaces.

Appellant states on page 27, lines 19-20, of the brief:

"*Dooris* does not disclose superior and inferior disk-shaped implants. "

The examiner respectfully disagrees. The devices of FIG. 10 appear to be disk-shaped and may comprise an attachment feature such as keel, i.e. a tab, see paragraph [0118], or the artificial ligament shown in FIG. 11, which comprises a tab, may be used in combination with the implants of FIGS.10.

Regarding claims 38-49, it is further noted that the superior and inferior implant components can be considered the "superior implant means for providing..." and "inferior implant means for providing..." recited in claim 38. Therefore, while the examiner disagrees that Applicant is properly invoking 35 U.S.C. 112, sixth paragraph, the examiner maintains that the Dooris reference discloses the claimed subject matter as means for providing an artificial articulating surface on a superior articular facet of a selected cervical vertebra and means for providing an artificial articulating surface on an inferior articular facet (see paragraphs [0113-0122]).

The rejection of claims 1-2, 4-6, 8-15, 20-24, 38-49 under 35 U.S.C. 102(e) as being anticipated by Dooris et al. (U.S. Patent Application Publication No. 2004/0127989) is deemed proper.

Rejections under 35 U.S.C. 103(a):

Applicant has not provided any further argument as to why the rejections under 35 U.S.C. 103(a) are improper other than the arguments already addressed above. For

the reasons set forth above, the rejections of claims 16-17 and 50-51 under 35 U.S.C. 103(a) as being unpatentable over Fitz (U.S. Patent No 5,571,191), claims 16-17 and 50-51 under 35 U.S.C. 103(a) as being unpatentable over Dooris et al. (U.S. Patent Application Publication 2004/0127989), and claims 14, 23 and 48 under 35 U.S.C. 103(a) as being unpatentable over Soboleski et al. (U.S. Patent Applicant 2002/0151895) in view of Lee (U.S. Patent Application Publication 2005/0043797) are deemed proper.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Mary Hoffman

Conferees:

Eduardo Robert

EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER

Tom Barrett TC3700 TQAS